

“The Board and OWCP may not exercise simultaneous jurisdiction over the same issue in a case on appeal. Following the docketing of an appeal before the Board,

OWCP does not retain jurisdiction to render a further decision regarding the issue on appeal until after the Board relinquishes jurisdiction.”<sup>1</sup>

Similarly, section 10.626 of OWCP’s regulations provides in pertinent part:

“While a case is on appeal to the [the Board], OWCP has no jurisdiction over the claim with respect to issues which directly relate to the issue or issues on appeal. The OWCP continues to administer the claim and retains jurisdiction over issues unrelated to the issue or issues on appeal and issues which arise after the appeal as a result of ongoing administration of the case....”<sup>2</sup>

The Board, having duly considered the matter, notes that OWCP was properly developing the issue of whether the acceptance of appellant’s claim should be expanded to include an additional lumbar condition,<sup>3</sup> as causally related to the accepted December 14, 2018 employment injury,<sup>4</sup> prior to the issuance of its March 6, 2020 termination decision. However, once appellant filed the Board appeal on February 9, 2020 in response to OWCP’s January 16, 2020 denial of her expansion claim, OWCP had no jurisdiction to issue its March 6, 2020 termination decision as the expansion issue was related to whether appellant’s employment-related conditions had resolved.<sup>5</sup> Consequently, the March 6, 2020 decision is null and void.<sup>6</sup>

Pursuant to 5 U.S.C. § 8149 and 20 C.F.R. §§ 501.2(c) and 501.3(a), the Board’s jurisdiction is limited to the review of final adverse decisions of OWCP issued under the Federal Employees’ Compensation Act. As the March 6, 2020 OWCP decision is null and void, the appeal assigned Docket No. 20-0864 does not contain a final adverse decision over which the Board may properly take jurisdiction. Therefore, the Board finds that the appeal docketed as No. 20-0864 is dismissed.

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<sup>1</sup> 20 C.F.R. §§ 501.2(c)(3). *See also M.S.*, Docket Nos. 19-1090 & 20-0408 (issued April 20, 2020); *J.W.*, Docket No. 19-1688 (issued March 18, 2020); *George Simpson*, Docket No. 93-0452 (issued February 18, 1994); *Arlonia B. Taylor*, 44 ECAB 591 (1993) (Member, Groom concurring in part and dissenting in part); *Douglas E. Billings*, 41 ECAB 880 (1990).

<sup>2</sup> 20 C.F.R. § 10.626.

<sup>3</sup> *D.F.*, Docket No. 19-1257 (issued July 19, 2020) (The Board found that appellant had met his burden of proof to establish that his post-traumatic stress disorder was causally related to the accepted employment injury prior to the termination of his wage-loss compensation and medical benefits. The Board further found that OWCP did not meet its burden of proof to terminate wage-loss compensation and medical benefits as it had not resolved the issue of whether the acceptance of appellant’s claim should be expanded to include his post-traumatic stress disorder prior to the issuance of the termination decision. The Board reversed OWCP’s decision and remanded the case to determine the extent and degree of any employment-related disability.)

<sup>4</sup> OWCP accepted appellant’s claim for lumbar spine sprain, sprain of the sacroiliac joint, lumbar intervertebral disc disorders with myelopathy, and intervertebral disc disorders with radiculopathy of the lumbosacral region.

<sup>5</sup> *M.S. and Douglas E. Billings*, *supra* note 1. *See also D.F.*, Docket No. 19-1257 (issued July 14, 2020).

<sup>6</sup> The Board had held that decisions that change the status of a decision on appeal are null and void. *Id.* *See also G.W.*, Docket No. 19-0260 (issued July 10, 2020); *Cathy B. Millin*, 51 ECAB 331 (2000).

**IT IS HEREBY ORDERED THAT** Docket No. 20-0864 is dismissed.

Issued: December 17, 2020  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board